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June 25, 1997

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 97-121

Dear Mr. Caton:

On behalf of the Competitive Telecommunications Association ("CompTel"), please take notice that yesterday, we met with Dan Gonzalez, legal advisor to Commissioner Chong, to discuss CompTel's position in this docket. Representing CompTel were myself and Danny Adams from Kelley Drye & Warren LLP, and Genevieve Morelli of CompTel. The attached documents were distributed and discussed at the meeting.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this notice are provided for inclusion in the public record.

Sincerely,



Steven A. Augustino

SAA/es

Attachments

cc: Mr. Gonzalez

SBC's APPLICATION FAILS SECTION 271 IN A NUMBER OF RESPECTS

The principal defects in SBC's application include:

- Track B is inapplicable in Oklahoma, and SBC cannot meet the Actual Competition Standard of Track A.
- SBC Has Not Fully Implemented the Competitive Checklist.
 - lack of proven OSS interfaces
 - failure to provide unbundled switching
 - failure to provide unbundled transport
 - SBC's rates do not comply with Section 251(c) or 252(d)
 - SBC is not actually providing each checklist item
- Grant of the Application is not in the Public Interest

**IF THE COMMISSION CONCLUDES THAT SBC HAS NOT MET ONE OR MORE OF
THESE REQUIREMENTS, IT MUST DISMISS OR DENY THE APPLICATION.**

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SBC CANNOT PROCEED UNDER TRACK B

- Track B is a Limited Exception to the Actual Competition Test (Track A). The provision is designed only to prevent deliberate inaction as a means to deny interLATA authority.
- Track B is inapplicable whenever a BOC has received an interconnection request from an unaffiliated carrier intending to provide local exchange service.
 - The "no such provider" language in Section 271(c)(1)(B) refers only to an "unaffiliated competing provider of telephone exchange service." Because negotiations will precede actual service provision, a requesting carrier ordinarily will not be operational at the time it makes an interconnection request.
 - Although the requirement that a carrier request interconnection "described in [Track A]" might mean that some requests are insufficient, the Commission should presume that a request seeks Track A interconnection absent clear and convincing evidence to the contrary.
- BOC interpretation would render Track A inapplicable unless and until its substantive requirements are met. Such a result would elevate Track B to the principal entry path and would create an incentive for a BOC to impede the actual provision of service by a competitor.
- SBC has received numerous requests in Oklahoma, including requests from Brooks Fiber and Cox Communications. Therefore, Track B is not applicable in this situation.

TRACK A APPLIES, BUT ITS SUBSTANTIVE PROVISIONS ARE NOT SATISFIED

- Brooks Fiber Is Not Providing a Telephone Exchange Service to Residential Subscribers.
 - Brooks' test is not a "telephone exchange service" because the service (1) is not offered to the public, and (2) is not offered for a fee.
- Even if Brooks Fiber Is Considered to be Offering Residential Service, It Is Only Offering Service Via Resale, Not Predominantly Over Its Own Facilities.
- The Question Whether Brooks' Trivial Number of Business or Residential Circuits Qualifies as Actual Competition Under Track A Is Not Ripe, Because Brooks Is Not Providing Service To Any Actual Residential Subscribers.
- No Other Carrier is Operational in Oklahoma at this Time.

SBC HAS NOT SATISFIED THE COMPETITIVE CHECKLIST

- SBC's OSS Access Is Unproven and Inadequate.
- SBC Has Not Demonstrated that It Is Providing Unbundled Switching and Common Transport in Accordance with the Act and the FCC's Rules.
 - SBC Must Not Interfere With a Purchaser's Right or Ability to Provide Originating and Terminating Access Services.
 - SBC Must Provide Access to All Features and Functionalities of the Switch (including customized routing).
 - SBC Must Provide Nondiscriminatory Access to Its Interoffice Network, Including Common Transport over the Same Facilities SBC Uses for Its Own Local Exchange Traffic.
- SBC Is Providing Access at Negotiated Rates Which Have Not Been Demonstrated to Comply With Sections 251(c)(3) and 252(d)(2).

GRANT OF SBC'S APPLICATION IS NOT IN THE PUBLIC INTEREST

- The Public Interest Standard Grants the FCC Discretion to Consider the Broad Range of Factors it Ordinarily Examines to Determine the Public Interest, Convenience and Necessity.
- The Public Interest Standard Must Be At Least Broad Enough to Allow the FCC to Give Substantial Weight to the Department of Justice's Evaluation.
- Grant of InterLATA Authority at This Time Is Not in the Public Interest Because the Risk of Harm to the Development of Local Competition Outweighs the Meager Benefits of Additional Entry in the Already Competitive InterLATA Market.